

Trade in America 38.

T W O
M E M O R I A L S,

BY
GOVERNOR POWNALL.

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18 Jan 1782

MEMORIALS



GOVERNMENT OF INDIA

T W O
MEMORIALS,

NOT ORIGINALLY INTENDED FOR PUBLICATION,

NOW PUBLISHED;

WITH AN

EXPLANATORY PREFACE;

BY

GOVERNOR POWNALL.

L O N D O N:

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Q W T



The Reader is desired to correct the following
ERRATA.

- P. 24. l. 2. after the word *departure*, place a semicolon,
and insert these words; *all these, like the
original principles of dissolution mixed with
the human frame, are working to disease.*
- P. 35. l. 10. after the word *these*, place a full stop; the
next *a* should be a capital; and in line 12,
after the word *want*, put a semicolon.
- P. 42. l. 6. from the word *commissioners*, dele the two
letters *er*.
- P. 54. l. 12. after *could*, insert *not*.

P R E F A C E.

THE following memorials were drawn up solely for the King's use, and designed solely for his eye. They must of course, containing matter of administration, be first communicated to his Majesty's Ministers. They were accordingly * communicated in the draught: and † afterward put into the hands of his Majesty's Secretary of State, appointed to the American department, that they might be communicated to his Majesty, with a most humble request from the Memorialist, either of permission to lay them in person at his Majesty's feet, being ready to answer any questions which might arise upon them; to give any explanations which might be required; to state, to the best of his judgment, *the line in which negotiation might train*, if such was found advisable;

* Dec. 25, 1781.

† Jan. 18, 1782.

and finally, to make a tender of his services, as an old servant of the Crown formerly employed in these affairs, to undertake such negotiation. Or, if there were any reasons which might render it improper for him to be admitted to his Majesty's presence, on the subject of these memorials; then praying that his Majesty would be pleased to refer the memorials, and his servant who presented them, to his Cabinet, or a committee of the same; to whom, under his Majesty's orders, he was ready to make the same communications. The Memorialist understood that this would not be disagreeable to his Majesty. The late Secretary, in whose hands these memorials were, thinking them worthy his Majesty's consideration, would have presented them. The Memorialist understanding that the other Secretaries of State, for the reasons they alledged, could not be of opinion to advise the opening of any negotiations, *especially with the persons authorized to treat of peace, and therein referred to*; and the memorials being delivered back to the Memorialist, since the late Secretary delivered up the Seals; the Memorialist finds himself precluded even from the endeavour of rendering that service to his Majesty and to his country,

try, which circumstances, consequent of the situation he was formerly in, put in his power, and which his zeal led him to make the offer of undertaking without present pay or future reward, as his Majesty's late Secretary can testify.

Some points, both as to fact and as to opinion, which the Memorialist (with all due deference he speaks it) thinks his Majesty's Ministers are misinformed in, and of course hold mistaken opinions upon, must have arisen. These, under a sense of zealous duty, and the most profound respect to his Majesty, in the most humble manner would have been stated. Understanding these memorials to be inadmissible by the Ministers, he knows no means but this, which he hath finally presumed to take, of laying them at his Majesty's feet. He knows these are matters which ought not to come forward to public discussion: but, since he hath understood that Ministers have entered the lists in public debates on these points, and that several of his Majesty's servants have given *definitive opinions* on matters, which should have found their definitions only in the conclusions of private negotiation, he hopes that he shall not be found offending.

He most humbly craves his Majesty's

gracious interpretation. He means not to offend ; at the same time he thinks it his duty to declare, that he means this mode of making these matters public, as a justification of himself to all who may be interested in this great event, and as an appeal to his Majesty and to his people against the opinions and conduct of the Ministers.

This memorial does not enter into the real or artificial reasons on which Ministers first advised his Majesty to carry force of arms into the governments of America. It was seen and declared, at the time, by those who knew that country, that although such measures might desolate America, they must, as they have done, separate them from, and nearly ruin, Great Britain in the end also. It goes only to the motives and views now given out to Parliament by the Ministers, as the *reasons for continuing the war*. It is said, that although a faction, having arms in their hands, have declared all union with the nation dissolved, and all allegiance to his Majesty's government absolved ; yet a majority in number of the people in America are disposed to submit to his Majesty's provincial government, and wish to be under it. The truth is, there are in that country,

try, as in all others where the people have a share in the government, parties; but more especially in a country wherein the curse of civil war rages. Besides, the persecution which the bad spirit of man, in a predominate cause, too often inspires; the many hard things which a government in a state of war, and acting for the time with powers dictatorial, must necessarily do; alienate the spirits of many; render others impatient under, and some even enemies to, the very government which they themselves had set up. This is the case in America. But that there are a majority in number, or any proportion of numbers who wish to see his Majesty's *provincial government* established with such powers, and under such forms, as must be now necessary to give efficiency to civil power, when the *consensus obedientium* does not accompany it, the Memorialist, who hath known the machine both in its composition and in its parts; who had once administrative powers in it, and who hath carefully watched every motion of it since, thinks it his duty to declare, as he would have presumed to have done in his Majesty's presence, is a mistaken opinion of the Ministers, and not fact. On the contrary, were his Majesty's arms so to prevail,

vail, as to place this supposed number of loyalists in the seat of government; and was that government established on civil power and authority only, it would be inefficient and impracticable. Was it combined with military establishments, and derived its spring from military force, these very loyalists, if ever they submitted to it, would take the first opportunity of revolting from it. Even those of them who are living in this country under his Majesty's protection, and on his gracious bounty, will not venture (some few excepted) to pledge their honour and character to the contrary of this. If they are ready to acknowledge this, his Majesty will find them more useful subjects settled in the government of Quebec than living here. This reason, therefore, on which his Majesty's Ministers advise the continuance of the war in America, is unfounded, will always prove delusive in the trial, and hath misled them.

If the Ministers give hopes, either to his Majesty, or to the people, that they can at any practicable expence, or by any means, send to America numbers, that shall be equal every where, wherever the service requires it, to meet the numbers which that country can at any given time bring into the field upon their own ground;

ground; they not only totally over-rate the sources of Great Britain, both in men and money, but have no idea of the numbers which communities, in that state of civil progression, in which the American colonies are, have always been able to bring, and can bring into the field occasionally, sufficient to the obstructing the operations of his Majesty's arms. If they have hopes of subduing by force of arms these people, as now connected with the French, and call this a French war in America—they should endeavour to have alliances also in America: they should endeavour to procure a fœderal union with the Americans, on the *solid basis of the actual state of things*. France would be conquered in America the moment that Great Britain formed an alliance with the Americans, or would be driven out of it. These very Americans would soon have occasion to call upon his Majesty's arms for assistance to drive the French army out of America, if they did not retire at the same time in which his Majesty began to withdraw his troops.

His Majesty's Ministers, after the concessions which they have persuaded Parliament to make; after the concessions which they have suffered his Majesty's Commissioners to make, without disap-

proving their concessions, but rewarding their services; cannot venture to say to his Majesty, that they advise the carrying on the war in support of his Majesty's sovereignty in America. While they held out revenue, to be drawn from America in aid of supply, as an object to the landed gentlemen of England, they gave up taxation over America: they have spent more than fifty millions; and instead of revenue have created a debt which these landed gentlemen must pay the interest of. While they presumed to hold out to his Majesty the maintenance of his sovereignty over America, as the object of the war, they acquiesced in concessions, offering to the American governments, *specifically as states*, the power of the sword, the purse, and the exercise of a perfect freedom of legislation and internal government, and thereby, in effect, if not in fact, have made a cession of that sovereignty to these States; and have lost the country.

Sad experience has shown, that they have not the least embryo of an idea as to the *means* of carrying on the war in America. They have neither *object* nor *end* in view: yet they have entangled his Majesty's affairs in a fatal necessity of going on with war, because the Ministers know not how to make peace.

While

While at one time, "*in the hour of their presumption,*" they have pledged the honour of the Crown and Parliament to measures which they cannot effect; and at another, *in the hour of their humiliation,* have made concessions in the other extreme; they have brought forward the American colonies *as States*; they brought them forward to the becoming an object under so strange a predicament, as hath rendered it impossible and impracticable that even the mediation of friendly powers can interpose and take place.

And finally, while nothing remained which ought to be done, or can be done, *so as even to commence negotiations in Europe,* but the making some preliminary treaty for a truce that shall prepare the way to a congress, they have cut even the very grounds of treaty from under their own feet.

This ground, as stated in the memorial, contained the only path which lay open and could have led to the vestibule of the Temple of Peace. The Memorialist, trusting that the Americans even still "retained too great a regard for the kingdom from which they derive their origin, to expect any thing *in the manner* of treating which was inconsistent with
" her

“ her honour,” and that they would, “ in
“ the mere point of honour, even help
“ out her Ministers :” also confident that
those persons who are authorized by
America to treat of peace, notwithstanding
the accounts received, and opinions
formed, by the Ministers, are, though
enemies, *men of honour and good faith*;
and conscious that he was known, both in
England and America, known by his in-
significance, never to have written, spo-
ken in Parliament, or acted in any one
instance, *on party grounds*, in this great
question respecting America, did presume
to think he could meet these persons *on*
grounds of agreement, preparatory and pre-
liminary to definitive treaty in a general
congress of the Powers of Europe. The
persons who must have acted in this, not
being such as the Ministers *could ad-*
vise the acting with, all consideration of
the measures proposed was precluded.

As the very idea of suffering those per-
sons to communicate, who could perhaps
have met *on grounds of agreement*, whereon
negotiation in all its forms might here-
after have advanced, was inadmissible by
the Ministers, the Memorialist did not
communicate *the line of treaty*, nor *the*
points through which that line might
have been drawn. As he did not find
himself

himself called upon to communicate those matters to the Ministers, he should now think himself greatly unjustifiable, to make them a matter of public communication. He hopes that the opportunity of obtaining that preliminary ground, whereon the Honour of the Crown and Nation might have stood undiminished, will not be lost. That it may please God to protect his Majesty's Honour; to bless his arduous endeavours for the welfare of his people; and that the next opportunity which Providence shall suffer to come forward, may fall into more acceptable hands, is the earnest prayer of his Majesty's faithful old servant and devoted subject. If unfortunately, by the high ton of some part of the Ministry, in which *things* will not bear them out; by the contemptuous rejection of *persons* who could and would have helpt them out, an opportunity of the like should not arise again (the Memorialist ventures to express an opinion, he does not presume to advise) nothing remains, but, by an act of real dignity, and from a self-derived spirit of honour, To DECLARE THE AMERICAN COLONIES FREE STATES; and to treat with them on the ground of perfect reciprocity. If this country hath yet those friends in
America

America which it is said she hath, here they may actually and effectually serve it: and if the old colonial affections, changing their nature, have not turned to bitterness hate, in the enemies which she hath there, such, when once become allies, will become friends IN SOME FAMILY COMPACT.

As the Memorialist thought that no one ought to presume to offer modes of negotiation for peace, who did not know the state of the service as to war, he prepared at the same time for his Majesty's inspection, *A State of that Service*, in a second memorial; pointing to that line which by success, if it should please God to give success to his Majesty's arms, might lead to peace. This also was in the hands of the late Secretary, and would have been presented. Candour, in an open way of acting, would have presented this, though perhaps differing in some points from ideas pre-conceived.

It did appear to the Memorialist, that, in the mode of conducting the war, which hath been adopted from the beginning, even success could not lead to peace. Peace is the end of all war; but the measures of this war did not seem to have that object or end. He saw his Majesty's af-

fairs entangled in a fatal necessity of going on with war, because the Ministers know not which way to look for peace. He therefore pointed the measures of the service which he presumed to state, to objects which might give grounds to peace, and firm alliance hereafter IN A FAMILY COMPACT; by which Britons, and British Americans united, might once more become, on a more extended basis, the great and glorious Nation they once were.

The hopes which the Ministers gave of a successful issue to this war, at the time when they commenced it, were, that his Majesty was at peace with all the world beside: yet they have so contrived their measures, and have set the conduct of the war on such a principle, as hath brought almost every maritime power in Europe to be hostile to, if not enemies of, this country. The consequences of these measures in event, have so combined America with Europe, that the contest is become an American war in Europe, and a French war in America. The measures of the state of the service which he presumed to offer, tended to separate this unfortunate combination; so that by success, and a temperate use thereof, peace in Europe or America might train in separate negotiations (each on its own grounds)

grounds) and render it again possible that, in that state of business, the mediation of friendly powers might take place.

These memorials in pure zeal, which the Memorialist hopes has not passed its bounds, and in perfect duty, are laid at his Majesty's feet, by an old servant of the Crown, and faithful subject.

T. POWNALL.

MAY

MAY IT PLEASE YOUR MAJESTY,

YOUR Majesty, by your speech from the throne, having, at the moment in which you are preparing to carry on the war with the greatest vigour, declared your wish of procuring for your subjects and their interest that protection by peace, which you are endeavouring to obtain for them by war; having, under the same conscious magnanimity as you put an end to the late war, expressed to the world your readiness to put an end to this.

The French King having, by his letter to the Archbishop of Paris, given pledge, in an act of devotion, to his royal word, that he is desirous of peace.

Two August and Imperial Sovereigns having offered their mediation in negotiations to the same end.

The Americans (the source, cause, and object of the war) having, by persons *authorized by them to treat of peace*, declared, *that any reasonable measures to that end, should have every assistance in their power,*

whenever Great Britain should be disposed to it. (Nov. 23, 1781.)

And these last notices having * come to your Majesty's Memorialist (as he did † immediately communicate to your Majesty's Ministers) he, an old servant of the Crown in this line of American service, practised and experienced in these affairs, presumes to obtrude himself into your Majesty's presence, and to lay at your feet the following memorial, as the last and only effort which Providence hath left in his power, of doing his duty to your Majesty and to his country.

If it were certain that a congress of all the Powers concerned in the present war, held under the mediation of the high Powers who have proposed the same, would be productive of peace; yet no such congress can meet until the several parties, amongst whom parts of this great business form more particular relations, shall mutually amongst themselves settle some preliminary articles, as to the manner in which they will meet, and as to the points in which they will (as our law-proceedings phrase it) join issue on the matters to be discussed. Until some

* December 5, 1781. † December 6, 1781.

grounds of agreement, whereon your Majesty can suffer the Americans to meet your Ministers, or to attend such congress, shall be settled by some preliminary negotiation, your Majesty will never acquiesce in sending your Minister to any congress into which their agents are admitted as Ministers. This must be an act of your own, in which no foreign Power can interfere, so long as the Americans are your subjects.

This memorial on this point, from precedents of what hath been done in the like case, such at least as may exculpate his presumption, endeavours to seek those grounds on which the way to peace may be cleared and plained.

He would not dare to hold in your Majesty's presence, an opinion that any such treaty should be held with rebellant subjects, did not the following precedent shew that an English Sovereign had so reasoned in the like case. In the year 1575, Queen Elizabeth offered her office of mediation* to Philip King of Spain, to the purpose of forming some *compromise* between him and his subjects: and sending Sir Henry Cobham on the occasion,

* Carte, Cambden, &c.

directed him to represent the mischiefs which must ensue *from the Dutch provinces falling under the French subjection*; and to press King Philip earnestly to make peace, rather than run that danger. Afterward, when the Dutch Deputies declared, that if they were rejected by England, they must apply to France for assistance, the Queen was alarmed, and promised to use her instances again, to procure them a reasonable peace. In the year 1576, she sent accordingly Sir John Smith to Spain on the same errand. Her Majesty's reasoning on this occasion took it's ground first from *necessity*, saying, that the greatest princes and monarchs that ever were, have been driven sundry times to yield to necessity: Secondly, from *policy*, cautioning the King *lest the loss of these provinces should put in peril his other states and kingdoms, being divided so far asunder as they were*: And lastly from *prudence*, that by acceding to some compromise he would spare infinite treasure, that was most unprofitably employed in the weakening of himself, by the destruction of his own natural subjects. Not succeeding in these advices, she entered into a league with the States, and sent, in 1577, Thomas Wilks to Spain, with a manifesto of her reasons.

And

And Lord North's eldest son*, with several other noblemen, went and served in their cause. Her Majesty ceased not however to press the necessity of some compromise, and in 1578 sent the same Wilks to Don John of Austria, to advise him *to yield to a truce*. All was in vain. The King however, in the year 1609, did agree to a truce with them *as with a free people* †, under the guaranty of *England and France, mediators* ‡.

If any *grounds of agreement*, any preliminary terms, leading to peace, could thus be obtained, under such a truce as your Majesty might find it consonant to your honour to grant, your Memorialist most humbly proposes that such should be *indefinite*; at the will of either party, or if made under guaranty, with the consent of the guaranties, to terminate on notice given according to the law of nations and of arms: 1st, Because if it were definite it would subsist only by cabals preparing for certain war, so as to obstruct instead of open the way to peace: 2d, On the other hand, if the truce be definite, your Majesty, or (if there be guaranties) the guaranties, at any moment in which

* Cambrden.

† Duc de Sully.

‡ Temple and Puffendorf.

your Majesty or they saw any ill use or abuse made by mal-practices, or bad faith, to the diminution of your rights, or those of your people, might annihilate the *ground* on which such mal-practices took their course, by declaring the truce at an end. On the contrary, if the *use of possession* granted under a truce were not misused, but if so used as to lead to treaty for peace in future: such treaty might wait events, or take place as emergent causes called it forth; might have its true digestion of negotiation, and not risque the being broken off by the determination of a definite period; or it might continue, without falling back to a revival of all the difficulties with which this business must always be entangled and perplexed.

Under such a truce granted by your Majesty, the States of America (as the Commissioners sent out from Parliament stiled them) being in the possession, use, and exercise of certain powers, as Free-States *de facto* (while your Majesty quitted no claim, but remained in possession of your rights unaffected, and of your honour unimpeached) would, if the state and circumstances of Europe required their attendance at any congress, come there *as such only by virtue of the truce*
under

under which they held quiet possession, and had the use and exercise of their powers, and not by right claimed: for until other Sovereign Powers shall, as the French King hath done, acknowledge their independence, they cannot be received as independent States, the allies of any other Sovereign: On the contrary, such a truce would relieve all difficulties with those Sovereign Powers, who, though they did not acknowledge their independence, might see the necessity of these Americans being admitted as *attendant*, if not *component parts*, of any congress which shall meet.

The chief matters respecting the *modes of possession* and the *regulations of commerce*, being by preliminary treaty, under the indefinite continuance of such a truce, arranged and settled, would clear the way of the principal difficulties of negotiation in any congress to be held, both as to forms, matters, and persons, and preclude all cases wherein your Majesty's honour might be committed.

Further: The putting of any negotiation, which your Majesty might permit to be undertaken, on the ground of such a preliminary truce, in order to prepare matters for the meeting of a congress, will give (notwithstanding such treaties

already subsisting as the Americans have with the French King, and to which they referred in the late proposals) both opportunity and right to negotiate separately without France; as such preliminary negotiation would in no way contravene nor even bring into question treaties already subsisting.

This memorial taking up the consideration of your Majesty's service in the affairs of America in this point of procedure, the Memorialist presumes to offer his services to undertake a negotiation for the purpose only of settling a truce with the Americans, as a preliminary measure, in order the better to treat of peace in future; either separately or in any general congress of the Powers of Europe.

The Americans, although they have hitherto declined offers of conciliation, and even of treaty, are yet, at this time, even since the advantages gained for them by the arms of the French King, ready and willing to treat.

The character of all nations, where the power of deliberation lies with the people, fluctuates between the extremes of confidence and jealousy. The peculiar characteristic of the Americans is, jealousy to the extreme. Great Britain hath
not

not been without her jealousies, as unfounded as the other. That repercussion of the spirit of jealousy wrought the breach in your Majesty's government in America, and brought on the war. The same spirit is now fermenting in America, to jealousy of their great and good ally the French King. That paramount sovereignty of the British Crown, which they feared in apprehension; actuated now by their General, supported by a French army, they now feel in fact. The many points on which future union of system, and conjunct powers and operations, must turn; the many difficulties which must arise in eventual partitions of the advantages to be derived; the very different idea of remuneration which must naturally arise in the expectation of the French troops, and in the estimation of the Americans; the perplexities which must occur in arrangements that must be made in quartering and supplying a regular army, that will not be shifted off, in the manner in which the poor wretches of an American army have been treated; the provoking insolence which the Americans must experience from the French; but above all (of which the greatest use may be made) the contemplation of the manner of getting rid of this army of

C 4

allies,

allies, when they want their service no longer, and desire their departure. Symptoms of the sense with which they feel these things begin already to show themselves, and will soon work to jealousies that will break out in open quarrel, if your Majesty's measures shall give scope to them. All these points conspire not only to make it the interest of the Americans, but their wish, to commence some negotiation with Great Britain before they are more entangled and involved with these suspected allies: if this crisis be neglected, they *may however* be so entangled, that their endeavours to emancipate themselves, although conspiring with the efforts of Great Britain, may not be able hereafter to co-operate to any effectual purpose. Although the Americans have refused offers of conciliation, and propositions of treaty with Great Britain; yet, when the grounds and reasons of their conduct are compared with the nature of their circumstances, and the circumstances under which these offers were made, a man of business will not only be not surprized that they did thus reject offers, and decline treaty, but, from the nature of the reason, will take experience how to frame any future negotiation on more practical grounds.

The

The terms of conciliation which were framed by Parliament, and sent over to the several Governors in America, in order that they should lay them before the respective assemblies of each province, became inadmissible to these people; 1st, because they were addressed to bodies of men, who had delegated the powers of treating of these matters; while they passed by that body of men with whom that power did reside: 2dly, because the receiving of them by the respective Assemblies would have been virtually to dissolve that union which existed collectively in the Congress only: and 3dly, because, under the questionable form under which they came to the Assemblies, had the people acceded to them, they must previously be supposed to have given up that claim of right, on the claim of which they had separated from Great Britain. In the predicament therefore under which they stood, they could not receive them. The same error of endeavouring *to make ground to suit the plan of a measure, instead of forming the measure to ground as it lay in fact*, rendered all proffers of treaty in 1778 impracticable. The Congress could not commit itself by taking up propositions offered by the Commissioners; because it saw, that in making

ing these offers they had exceeded their powers, and believed that Parliament, not bound even in honour to acquiesce, would not ratify them. Besides, however flattering the *offered cessions* might be, the proposed *union* under which they were to take place, according to the plan of the Commissioners, supposed a non-existence of, or an inefficiency in, the Congress as to state-affairs, which for the future were to be carried on in each respective Assembly of each separate Province. *The United States, therefore, in Congress assembled*, must, before they could admit these propositions, concede deliberately to a previous act of abdication; the offer therefore of these cessions became inadmissible by Congress. Although these cessions, which the Commissioners in the hour of their humiliation made offer of, were not admissible *as propositions to be treated upon*; yet the Congress took the ground which they gave, as ground existing in fact, and required *an explicit acknowledgment* of their independence: or a withdrawing of the fleets and army.

The nature of the ground which both the conciliatory propositions, and the offers of the Commissioners, took, being such as the Congress could not meet upon without renouncing their existence;
and

and which the several Assemblies could not meet upon without renouncing their union in Congress; was the true reason why the one could not be accepted, and why the second was inadmissible in treaty; not that the Americans were not willing to treat, or had not many interesting concerns to treat for, as will appear more fully in the following state of the circumstances and relations in which they stood towards the sovereign Powers of the earth, amongst whom they declared themselves *to have taken their equal station.*

From the moment that they declared that their allegiance to the British Crown was absolved, and that their political connection with the British state was dissolved, they became aliens in Great Britain; a trading nation of aliens, without any treaties of commerce, such as regulate the commercial intercourse, under the like benefits which nations having treaties of commerce with Great Britain enjoy.

If they trade with other nations, and wish to trade at large, and not by an exclusive trade with any one only, they must make commercial treaties particular with each nation, and settle the whole arrangement of tariffs peculiar to the terms

terms of their special treaties for themselves; as they have no longer any right to communicate in, or enjoy, the foederal benefits which they had hitherto enjoyed under their allegiance to the British Crown, and during their continuing parts of the British nation. These rights, which the British Crown had, through a long series of wars and treaties obtained, they, by their separation, have lost all right to amongst the nations of the earth.

They cease to have any right to, or share in, any of the British fisheries, which are by treaties, and the laws of nations, the acknowledged appendages of the British Crown.

They have lost, losing the benefits of the British act of navigation, the carriage of the American and West India trade to Great Britain.

The two last branches of navigation was the great source of their ship-building business, and the creation of their seamen.

They have lost all right of trading to the British dependencies, by which they are cut off from their circuitous trade between the fisheries, Africa, and the West Indies, in fish, slaves, &c. and in molasses, the ground of their distillery.

They have lost all right of being protected

tested under, or of being admitted to a share in, the stipulated privilege of cutting logwood in the bays of Campeachy and Honduras, which Great Britain enjoys under treaties with Spain. Under cover of this privilege, the Americans chiefly carried on, during their connection with Great Britain, an extensive and advantageous commerce, to a degree and in a manner, sometimes, so as to involve Great Britain in misunderstandings with Spain on their sole account.

Finally, having renounced the protection of the British flag, they have to treat for the acknowledged establishment of *their* flag; as also for the terms on which, and the extent to which, it shall be respected by each nation. They have all these rights to settle with every nation of Europe; but more especially with the Barbary States and the Turkish Powers; as they can no longer profit of sailing under the protection of the British Mediterranean passes settled by treaty with Great Britain.

They have no right to the benefits accorded to Great Britain by the Russian treaties of commerce, unless obtained by some new treaty of their own, or enjoyed under some tacit interpretation of her Imperial Majesty.

They

They can have no right to partake of, or participate in, the benefits of the treaties which Great Britain hath with the kingdom of Portugal, until they shall have made like treaties of alliance and commerce, unless under connivance for the present.

They have also to settle the terms under which they shall pass the Sound into the Baltic.

Nor is the manner in which their flag shall be received into the Port of Ostend yet settled.

This memorial does not enter into the predicament in which the American commerce must stand with respect of trade to and from Ireland, as that is become a business above, and beyond, the comprehension of the Memorialist. As they now stand, they have all these rights, both *fæderal* and *commercial*, to negotiate for, many of which Great Britain obtained in consequence of great and successful wars.

If they can obtain these under any reunion with their nation and mother country, instead of having them to solicit and treat for in every Court (not standing on the vantage ground which Great Britain did when she obtained them) a people practised and experienced will not be unfeeling to their own interest,

rest, nor at a loss to see their way to it, whenever any preliminary treaty shall have opened the way for them.

To sum up all, they do in fact feel all these matters and reasoning; and persons *are authorized* by them *to treat of peace*, and these persons have declared that any reasonable measures to that end shall have every assistance in their power, whenever Great Britain shall be disposed to it.

It does not appear to your Memorialist (with the most humble deference he speaks it) possible, that any Minister from your Majesty, after the offers of cessions made by the Commissioners, and after the demands made by the Congress thereupon, can meet with the Congress upon ground of treaty, until some preliminary terms be settled, as they may be best settled, under the conditions of a truce as above stated.

Your Memorialist, from his experience in this business; from information of the state of things, being convinced that a preliminary negotiation may be commenced; from his knowledge of the persons with whom such matters must be negotiated, as men with whom it was once his duty to act, with whom he has acted, with whom he has negotiated business

finess of the Crown, and whom, however habile and dextrous he found them, he always experienced to be of good faith; as men who have known your Memorialist in business, and will have that confidence in him which is necessary to the digestion of affairs; is bold to offer, by his services, to undertake this negotiation, and is ready, whenever your Majesty shall command him, to submit either to your Majesty or to your Ministers, as shall best please your Majesty, *his ideas of the line in which it ought to train.*

He does not presume to vaunt of his former services in this American line, although he shall always be proud of the approbation they received. They are now forgotten; and his sole ambition is to establish new merit in your Majesty's eye by new services to your Majesty and to his Country: nor doth he desire, in any shape whatsoever, any other reward.

All which, craving your Majesty's most gracious interpretation and pardon, if aught shall appear amiss, is with the most zealous duty to your Majesty, and in extreme anxiety for his Country, submitted to your Majesty's wisdom.

T. POWNALL.

Richmond,

January 1, 1782.

MAY

MAY IT PLEASE YOUR MAJESTY,

YOUR Memorialist having, by his memorial previous to this, which he now begs to lay at your Majesty's feet, presumed to state how, by negotiation for an indefinite truce, Great Britain, without committing the honour of the Crown, might advance to and stand on, together with America, *grounds of agreement*; and having suggested that, *so standing*, she might, without diminution or impeachment of the honour of the Crown, treat with the Americans as *with free states de facto, under a truce*; doth herein proceed, in case all compromise shall be found inadmissible *in idea*, and all access to grounds of agreement impracticable in fact, to submit his opinion of the state of the service in America.

Your Memorialist having been in the service of the Crown during the last war in America, in characters wherein it was his duty to be informed of and to study these objects; wherein it was his duty to

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give his opinion on military operations ; wherein his opinions were formerly adopted ; most humbly hopes that he shall not be thought to have gone too far in presuming to give the opinion which follows.

Your Majesty's government is extended over the provinces Quebec and Nova Scotia ; your Majesty's arms possess New York, and in some measure cover the possessions of the Staten and Long Island ; possess also Charles-town, and have an ascendant command in Georgia and East Florida. Between the frontiers of New York, New England, and Quebec, there is a district possessed by a number of people, who having withdrawn themselves from the revolted provinces, and taken as yet no part in the war, have fortified themselves in a state of neutrality.

The possession of the provinces Quebec and Nova Scotia, is necessary to Great Britain so long as she retains her plantations in the islands of the West Indies : they are the sources from whence (at a certainty, under all events) these islands can draw their necessary supply of lumber, fish, and live stock. The memorial does not here take notice of the supply of flour, corn, and grain, nor of salt-provisions, which may in future be drawn from

from thence, as he conceives that these may be more beneficially at present drawn, the first from England, the last from Ireland.

The possession of these provinces is necessary to Great Britain as a naval power: without them, she can have no naval station, command, or protection in the American seas: with them, she may have all these, although they may not be able to supply at present her navy with all the naval stores that she may want. They will, however, supply sufficient quantity to ward off the monopoly which some of the northern Powers of Europe have formerly endeavoured, and may again endeavour, to establish against Britain; and have, and may again, as far as such could be established, use it hostilely against her.

The province Quebec, occupied to the extent that the variety of its natural products and capabilities go to, will become a much greater source of trade, in all events, than may appear openly at first sight. This province, by the command which it hath of water-carriage (if the maintaining of that command shall be duly attended to and continued) will be the market to, and have the supply of, not only the Indians, but of all the inhabit-

ants of the back countries, as they shall become settled, be they settled by whomsoever they may; for the merchants of this province, by advantage of their water-carriage, and by their ease of communication, will be able to supply the distant market cheaper than any other can, and will of course have the custom.

To defend and to maintain command in this province, the Memorialist ventures to say it will be necessary to maintain such a naval establishment on the great lakes, and on Lake Champlain particularly, as shall hold command in them. This measure this Memorialist first had the honour to suggest and recommend at a congress held at Albany in the year 1754; this measure was then adopted, was for the first time in 1755 put into efficient execution, and proved a decisive measure in the events of last war.

Such a naval power is necessary for the defence of Montreal and Quebec; such is necessary to the maintaining of authority with the Indians, and to the keeping open the courses of trade and commerce; it is necessary to cover the advancing settlements of the province, as in time it shall be enlarged in population and habitation.

The possession of the province Nova Scotia,

Scotia, by the command that a naval station at Halifax may give, is necessary to the protection of the northern fisheries in America, at least to such share as this country may hereafter have in them.

The sort of interest and power which may arise from a right occupying of these provinces, will always retain some hold on the *thirteen tribes which have gone off from Israel*; and when war shall end, will make it their interest to seek the alliance of Great Britain: as, on the other hand, Great Britain will always find it her interest to maintain a maternal alliance with the Americans, her descendants.

It is an object of such interesting importance to the Americans and French, that Great Britain should not possess these provinces as an enemy, that they will certainly become an object of attack: Halifax and Penobscot will be attacked next campaign by the French and Americans, and most likely Canada also. The defence of these provinces, and the maintenance of these posts, is of such and so great importance to Great Britain, that all the force which can be spared for the North American service, ought to be united at these points, and not divided. They ought not to be frittered away by being stationed at posts where the service is not so decidedly necessary, and where, not by the fatality,

but by the natural course of war, they must surrender.

The defence of the province Quebec depends, 1st, on the maintaining of the naval command of the lakes; 2d, and next, on having within distance of supply and relief (and of mutual communication, where that can be contrived) strongly-fortified posts, with sufficient garrisons, *at the heads of the waters* of that province, on Lake Champlain, with outposts on Lake George and Wood Creek, and on the rivers St. Lawrence, St. Francis, and Chaudiere.

The erecting the district aforementioned, lately called Vermont, into a frontier province, under such establishments civil and military, under such tenure of property, and such frame of government, as shall make it worth the while of those individuals (both those who lead and those who are led) to wish to be under such government, would prove a measure that might be wrought to a principal part of strength.

Another part of defence and strength added to the province Quebec, would be a right establishment and administration of Indian affairs.

The settling such of the loyalists, refugees from the Americans, as choose to live

live under British government, in a way not to ruin but to preserve them, is not only a measure which honour, justice, and humanity require; but the settling of them in these provinces (if that be done as it ought to be) will in time become one of the principal means of defence and strength to them. The giving to these unfortunate and ruined people lands, in the common idea of that measure, would be cruelty under the cloak of benevolence; but the purchasing for such of them, who had been farmers, farms, in part brought forward into culture (called by the Americans improvements) and the settling them where they will be of the greatest use to the civil government, as also to the military defence, as a militia, would be an act wherein true wisdom and real benevolence would unite. To those who had not been used to farming, but were merchants, houses should be given, with the means of commencing again, in some degree, their business. Those who were merely tradesmen and mechanics will be more easily settled and reinstated. Those who in their original homes, from whence they have been driven, were advanced, or were advancing, to honours, and a share in the government of their country, will of course become subjects

for trust and employment with your Majesty.

The defence and strength of Nova Scotia will depend principally on a commanding naval force, whose port, dock, and station, will be Halifax; and on a strongly-fortified post, with a respectable garrison, at Penobscot; while the seat of government, removed from all interference of navy or army, resides at Annapolis-Royal.

When the present Memorialist was Governor of the province Massachusetts-bay, knowing the importance of that post of Penobscot, he took possession of it; and built a fort there, which the people named Fort-Pownall. The province paid the expence of the measure, as also continued to provide for the maintenance of the garrison there. He received the gracious approbation of his late Majesty, conveyed to him by Mr. Secretary Pitt; so that the importance of this post hath not been unknown, and is not new to Government. The people of Massachusetts know so well the importance of it, that they will not only make it a point of their own service, but will never cease to urge their allies to assist them in getting possession of it. Your Memorialist doth apprehend that measure to be already concerted and determined.

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This post ought to have, as part of it's garrison, a considerable body of light-infantry or wood-hunters, employed as partizans in a continual range of *scouting* on the line of communication between Penobscot and Chaudiere, which will then be the line of frontier between New England and Nova Scotia; on which there ought to be such temporary posts as the Romans used, and called *stationes æstivæ*. There ought also to be a number of whale-boats kept here, as by means of such the most efficient and most speedy application of force might be made, whenever, in case of irruption, it might be suddenly wanted: and because, while we are always ready, the enemy would find it a hazardous enterprize, which they would scarce risque, to cross the Penobscot river, as they might be so easily cut off from retreat.

The having a fleet in the North American seas, which ought to be ascendant there, is necessary; 1st, to the defence of the provinces Quebec and Nova Scotia; 2dly, is necessary to the maintaining the communication between them, and the communication of the forces posted within them, to the supply of the same, and to the maintaining free and open the navigation to and from them,
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to the West Indies and to Europe. It is necessary to the protection of the North American fisheries.

New arrangements will become necessary to be made, either by reforming the civil, naval, and military commissioners, that they may no longer, as they have always hitherto done, both in jurisdiction and execution, interfere with each other, but conspire to the one great point, your Majesty's service.

This Memorialist would betray his duty, if he did not here mention the necessity which will arise of establishing a Free Colonial Constitution of Government in these provinces; but he does not now enter into it, as that is an important matter of consideration separate from the present. It will however mix itself essentially in the consequences.

The squadron posted at Halifax, and the squadron stationed in the West Indies, unless they are united under one general command as at present, will of course have their orders to co-operate, and to join in part or the whole, as the service in its emergencies, for which no instructions can be given, may require. The West India squadron will, in the ordinary course of service, convoy the trade up to the latitude of Bermuda, where the North

American squadron will take it up, and convoy it to the Western isles, or perhaps only to the Banks of Newfoundland, as the case may require; and the European Western squadron will be ready to receive it at its approach to Europe: and so by a like division of service from Europe back to America and the West Indies.

The consideration which arises upon your Majesty's island Bermuda, will come more properly submitted to view at the same point with that of Charles-town.

The possession of the city New York arises next to view. As this memorial hath stated above the necessity of the command of the province Quebec being carried up *to the heads of the waters* of that country; so if the command of New York had been, as it should have been, carried to the command of Hudson-river, the importance of it, and of maintaining it, could not admit a doubt. The command of the Hudson-river is the object; not the port of New York. This is not by its nature calculated for a dock-yard or a winter harbour; it may, if there were none else, be used as such, but with much inconvenience, and liable to accidents. Halifax is the place suited best to this purpose, and is at the same time a safer and more commanding station. The
command

command of the Hudson-river, as this Memorialist hath on repeated occasions explained, might have given communication, co-operation, and *union of force*, to your Majesty's arms and government; and would have cut off, in the very spine, all that communication of reciprocal supply, all that co-operation and intercommunion of force, which was necessary to the enemy; but from the moment in which the command of this river was abandoned, the *terminus ad quem* being given up, the *terminus à quo* was of no more use in that view of service; which experience hath since sufficiently evinced, in the passing and repassing of that river by the enemy, as their co-operations of service required, or as it became necessary to cut off all co-operation between the parts of your Majesty's service. As to the keeping possession of this post for the purpose of trade, that will much better go on where there is no *military superintendency*. If *upon system*, looking and justly directed to that point, the operations of your Majesty's service had been carried to a general possession of *All the trading ports on the coasts*, Boston, Newport, New London, Newhaven, New York, the Delaware and Chesapeak bays, and Charlestown, that would have been another matter;

ter ; but the possession of one or two only will have no other effect than the ordinary course of trade hath had, that of raising one port by the diminution of another, of raising that which is free, and depressing that which trades *sub bastâ*.

In a military view it becomes well worthy of consideration, whether this post, instead of being merely defensive and protective, may not, like Gibraltar, prove an unceasing post of war, which will exhaust the resources and distract the forces of your Majesty's service. Besides, this garrison, unless there be an army also in the field, can never, as a garrison, cover the Staten and Long Island, much less the rest of the province.

Those who have alternately taken and lost Charles-town, are the best judges how far it is capable of being maintained under the present state of the service ; are judges of the communication, as part of a system, which it may have with other parts of your Majesty's service ; of the certainty of adequate supply and necessary succour it may depend upon. On the other hand, consideration will maturely weigh how much more this post (like that of New York) may exhaust the resources and distract the forces of your Majesty's service ; as also how the garrison

son itself will be constantly exhausted by the nature of the situation in such a climate, so as to become a perpetual draught on the rest of the service. A garrison thus pent up on a neck of land, leads to no command in or protection of the country; and in point of commerce the same may be said of this as of New York.

The Memorialist would not presume thus to urge his opinion, did it not appear to him, that there is a port of much more use; much better calculated for general service; *a port* by means of which, if not at which, the North American and West India squadrons may form an union of service: a *station* which may be employed to the greatest effect, both in the protection of the trade of your Majesty's subjects, and in annoyance of that of their enemies: *a place* in which your Majesty's forces would live in the most healthy climate. If your Majesty should please to order your troops garrisoning Charles-town to change their position, and part of them to take post at the island Bermuda; to order that island to be fortified as strongly as the nature of the place (strong also by nature) and as the art of military defence can make it; as strongly as the nature of the service requires it should be made; every good purpose

purpose of an *important post* would be answered. It would become an *entrepôt* between the West Indies and North America, between the West Indies and Europe; a *place of refuge* to mercantile navigation in case of distress or danger in those seas; a station of annoyance, both by frigates and privateers, to your Majesty's enemies in case of war: and would be found of twenty times the importance which Minorca* now is in the Mediterranean sea.

As to the provinces Georgia and East Florida, if the Memorialist dared, from general ideas of the general service, to express an opinion on a particular point of service, where *facts* have never yet been ascertained, as to the benefits of these provinces compared with the expence of their establishment and their use; as to the state of their command or defence; and as to the effect of a British government there; he would say, that if, on some good occasion, and for good and sufficient consideration, they were ceded to Spain; the Spaniards and Americans might here make the first experiment of their alliance and mutual amity, in the settlement of *a line of dimarcation* between their respective domains; as also of articles of friendly commercial intercourse

* When this Memorial was written and communicated, Minorca belonged to Great Britain.

of their subjects on these frontiers. This his opinion is founded, amongst other sentiments, on a belief, that the one or the other of these Powers would soon apply to your Majesty for your royal mediation, if not for your protection.

The same, if not something more, and more particularly decisive, may be said as to those parts, where the French military force (like the rider which the horse took to his aid) is ascendant in alliance with the Americans, of the effect of your Majesty's withdrawing your operations from interfering with the harmony of this alliance.

By these means (formed as the combination of events now is) the troops, instead of remaining posted in stations that give no protection, that have no co-operation; that are liable to distract the efforts of your Majesty's service, and that are liable to be cut off from communication of supply and aid; would be so drawn together, as that they would have communication and co-operation; and give protection to your Majesty's subjects and provinces, and force and efficiency to your Majesty's command and government; and form a conspiring united system of that command throughout your Majesty's dominions in America connected with Great Britain.

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By these means your Majesty would soon find yourself holding the balance of power between these new allies of that country: a power that would carry command wherever it was called upon to interfere.

All which, in perfect zeal and duty, and upon his allegiance, is most humbly submitted.

Richmond,
Jan. 2, 1782.

T. POWNALL.

By these means your Majesty would
 soon find yourself holding the balance of
 power between these new allies of this
 country: a power that would carry them
 hand wherever it was called upon to in-
 terfere.
 All which, in point of fact and duty, and
 upon his allegiance, I most humbly sub-
 mitted.

T. POWELL.

Richmond,
 Jan. 2, 1782.

APPENDIX,

CONTAINING SOME ARGUMENTS WHICH WERE IN THE FIRST DRAUGHT OF THE MEMORIALS, BUT LEFT IN THE SECOND DRAUGHT AS THEY NOW STAND AND WERE TO BE PRESENTED.

THAT the idea of the sovereignty which the British State claims over America, and against which, as it was claimed, America hath revolted, may no longer hang suspended over that metaphysic ground on which it was at the commencement of the quarrel first stated, and on which it hath been labouring, until the business itself is quite ruined in operation and nearly rendered impracticable in negotiation: it is in the following paper stated *on the ground of fact*, as it stood in act and deed before the revolt of the Colonies, and as it now stands

since the journey of British Commissioners to America.

The British idea of the British sovereignty is, That the Americans as individuals, as also in their respective provinces, colonies, and plantations, are indissolubly united to the *British State*, as subjects thereof, without being participants in the governing legislature: That they are subjects of a monarchy, in and over the limitation, settlement, and establishment of which, wholly residing in Parliament, they have no legislative controul: That they are subjects of the King, not in the same manner as a Briton, who is a participant in the will of the state, is subject to the King, but subject to the *King in Parliament*. The Americans always held they are and ought of right to be subject to the King in the same manner as a Briton is a subject; but conceive that *the King in Parliament* is a compound monarch, in whom is united legislative will and administrative execution, and who is therefore in essence and de facto absolute and despotic.

These two ideas, if there can be no modification in the one or the other, are so remote, and have such incompatible disparity, that they could never be brought to, or stand on, the same ground together.

together. They never could unite in administration of the government of the Colonies; and can never meet in any negotiation of their business as they now stand towards each other.

No system of the administration of the Colonies could ever harmonize, much less unite these two repugnant and discordant ideas, so long as, or whenever the People on the one hand, and Officers of the Crown on the other, were extreme to mark, without any modification, the utmost bounds of either.

The government of the Colonies was always, by those who referred *to the actual* predicament in which the constitutions stood, and not to legal theories, which existed only in the remembrance of law, conducted by that sort of address, and under those mutual acquiescences, by which the marriage state goes on; wherein, whilst one seems to govern, the other actually does so: and which, though sometimes disturbed with temporary misunderstandings, is upon the whole the happiest state.

Those of the King's servants in America, who administered the royal powers under this idea of *practicable sovereignty* harmonized with *actual liberty*; and who by their conduct could acquire an interest

and ascendancy in the opinions of the people; could, and did govern the Provinces. Those Governors, and other Officers of the Crown, who could not find in their administration to admit of any modification of the strict legal idea of sovereignty, so as to set it on the same ground with that liberty which the people called constitutional, and claimed: those who thus referred to an ideal sovereignty, which never did exist in America, and could see and admit an actual liberty, which did exist, never could and never did govern these Provinces. On the contrary, they perpetually brought the rights of the Sovereign into discussion; and as constantly committed the honour of the Crown in disputes, wherein it always lost some part, and have finally brought it into a contest wherein it hath lost the whole. This is the opinion, and was the system, of a poor practical Governor, who did govern his Majesty's provinces; this is *the leaf out of his book*, which the late Earl of Halifax directed him to give to his successor, Sir Francis Bernard, *that he might govern them as well as they had been governed by the forgotten servant who writes this.*

This idea of harmonizing, by practical *modifications of Sovereignty and Liberty*, the

proceedings of Government on *constitutional ground*, was the idea by which the Americans drew the line of their rights and claims. This ground, on which the administration of the government of the Provinces had *in fact* always stood, was the *old ground* which they petitioned to be placed upon, and which they took and fortified, in order to maintain, at the commencement of this unfortunate contest.

When the Americans were told from authority, supported by arms, * that “*No line could be drawn between the supreme authority of Parliament and the total independence of the Colonies*”—when this alternative was the only ground left—they declared themselves FREE AND INDEPENDENT: And,

1st. *That all allegiance to the British Crown is absolved.*

2d. *That all political connection with the state of Great Britain is dissolved.*

The contest issued in an appeal under arms to Heaven. Events, *by something contrary to the estimation and ordinary course of human affairs*, have declared against Great Britain. She therefore, under powers originating in Parliament, and by Com-

* Governor Hutchinson's speech to the Assembly, June 6, 1773.

missioners commissioned and instructed by the King, has *de facto* acknowledged *those Provinces, Colonies, and Plantations to be States*. And by propositions made, hath offered to consent to the establishment of *every State*, with power, by its own legislature,

1st. To settle its own revenue.

2d. Its military establishment; so that no military force shall be kept in the different States of America, without the consent of the general Congress or particular Assemblies.

3d. To exercise perfect freedom of legislation and internal government.

If now, in the same view as this paper hath stated the actual existence of the sovereignty prior to the revolt, the Minister of the time being shall examine what operation this state of sovereignty, which the Commissioners proposed to consent to, must have; they will find, that these States, thus become independent in legislation and internal government, independent as to the purse and sword; and being removed from Great Britain at three thousand miles distance; this proposed sovereignty left to the mother-country could in principle be but a half-sovereignty, and in execution no sovereignty at all.

Although these propositions were not accepted; although the government of Great Britain is by no law, human or divine; by no point of justice, express or implied; by no obligation, perfect or imperfect; bound to meet the same parties on the same ground: yet, this cession having been proffered by persons authorised from King and Parliament, and these propositions not disapproved, but the persons who made them rewarded; being made when America stood on the defensive; Great Britain, who retired back to this ground under the then predicament, can never, under the present circumstances of the British arms, advance forward *de facto* to better.

The writer of this paper, having submitted to consideration, on the grounds of fact: First, How the sovereignty existed in efficiency, prior to the revolt: Secondly, On what ground it must now stand, as the state of our negotiations have placed it: And, thirdly, having in his second memorial, by a detailed state of the service, shewn how it stands committed, in consequence of the events of war; cannot perceive that he exceeds the bounds of duty, which a faithful subject owes to his King and Country, when he recommended, in his second memorial, the withdrawing
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the troops from a subordinate contest in North America, which must be decided by other events elsewhere; or that he offends against the strictest bonds of his allegiance, when he recommends the treating with the Americans *as with Free States*, for a truce, on terms of *uti possedetis*, as preliminary to a general congress of Europe; while, saving the honour of the Crown, he removes the stumbling-block which lies *in limite*, and recommends what may be made practicable: Nor that he could incur the imputation of betraying the Crown, if he was a Minister, and should advise, in case the sovereignty can neither be preserved by arms, nor re-established by treaty, not a surrender or a cession, but a withdrawing from the dismantled ruins of a fortress, no longer defensible or tenable.



F I N I S.